IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

ARBITRATION PETITION NO.10 OF 2007

Mr.Sayed Sohail Jaleer & ors. Petitioners
vs.
The Cosmos Co-operative Bank Ltd. Respondents

None for the petitioners.

Mr.Yashodhan Sakhare for the respondents.

CORAM : ANOOP V. MOHTA,J.

DATED : 13th April, 2007

P.C.

None appears for the petitioners.

2. Heard the learned counsel for the respondents.

3. The learned counsel appearing for the respondents submitted that though the matter was adjourned from time to time for settlement, yet the petitioners never approached for the settlement.

4. This is admittedly a case of loan advanced by the respondents-Bank to petitioner no.1. Petitioners 2 and 3 were surety. The loan was for a sum of Rs.9 lacs, based on the terms and conditions including of the defaults and interest, as agreed between the parties.

5. As there were defaults committed by the petitioners, the matter was referred to the Arbitral Tribunal and as dispute arose under Section 84 of the Multi-State Co-operative Societies Act, 2002.

6. The petitioners appeared and resisted the said claim of the respondent-Bank of total amount of Rs.5,59,937.76 ps. with future interest and costs in view of the defaults in the payment.

7. After considering the record as well as the material placed on the record by the respondent-Bank, the learned Tribunal by its award dated 18.10.2006 granted the award against petitioners 1 to 3 jointly and severally for the sum of Rs.5,59,937.76 with future interest at the rate of 15% per annum including 2% penal interest from the institution of the claim i.e. 14.12.2005 till realisation of the said amount. Admittedly out of the total amount of loan, the respondent-Bank have recovered the amount of Rs.3.55 lacs by selling the vehicle in question. The balance with the interest at the rate of 13% is the present claim as raised before the Tribunal.

8. The reasoning given by the learned Tribunal so far as the merits of the matter need no interference as admittedly, there were defaults committed by the petitioners in so far as the instalment part is

concerned. There is no substantial defence raised and/or could be raised by the claimant even before the Tribunal and even in the present petition. The award therefore appears to be fair, reasonable and within the framework of law.

9. The agreed rate of interest as charged is also maintained.

10. The claim of future interest at the rate of 15% p.a. be replaced by 9% from the institution of claim i.e. 14.12.2005 till payment of the whole of the amount in view of the following extracts of the judgment of the Supreme Curt in **Krishna Bhagya Jala Nigam Ltd. v. G. Harischandra Reddy & Anr., 2007 AIR SCW 527.**

> "11. .... Here also we may add that we do not wish to interfere with the Award except to say that after economic reforms in our country the interest regime ha changed and the rates have substantially reduced and, therefore, we are of the view that the interest awarded by the Arbitrator at 18% for the pre-arbitration period, for the pendente lite period and future interest be reduced to 9%."

11. Considering the facts and circumstances of the case and as there is no substance in the merit of the matter except the future rate of interest, I am of the view that at this stage itself the award can be modified to save the further time as the purpose of the Arbitration

Act which is to see that the parties should get the fruit of the award and/or arbitration proceedings, as early as possible.

12. The award is, in the facts and circumstances of the case, modified to the above extent.

13. In view of this, the petition is disposed of with the above modification. No order as to costs.

[ANOOP V. MOHTA,J.]